

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Bayside Oil II, Inc.  
210 Encinal Street  
Santa Cruz, CA 95060

CAD 088 838 222

Respondent.

Docket HWCA 2006 1106

CONSENT ORDER

Health and Safety Code  
Section 25187

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and Bayside Oil II, Inc. (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent generates, handles, stores, transfers and/or disposes of hazardous waste at the following site: 210 Encinal Street, Santa Cruz, California 95060 (Site).

1.3. Inspection. The Department inspected the Site on November 15 and December 6 of 2005.

1.4. Authorization Status. The Department authorized Respondent to manage hazardous waste by a Standardized Hazardous Waste Facility Permit (the "Permit") issued on December 22, 1997 and subsequent approved modifications.

1.5. Jurisdiction. Health and Safety Code section 25187, authorizes the Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.6. Full Settlement. This Order shall constitute full settlement of the violations alleged below. The Parties, and each of them, agree that this Order, and all of the terms contained herein, are fair, reasonable, and in the public interest. By agreeing to this Order, the Department does not waive any right to take other enforcement actions except as specifically provided in this Order.

1.7. Hearing. Respondent waives any and all rights to a hearing in this matter.

1.8. Admissions. Respondent admits the violations described below.

## 2. VIOLATIONS ALLEGED

2.1. The Department alleges the following violations:

2.2. The Respondent violated Health and Safety Code section 25160.2, subdivision (b), in that on or about March 29, 2005, the Respondent failed to complete a separate manifest by each vehicle driver, with respect to each transport vehicle operated by that driver for each date.

2.3. The Respondent violated California Code of Regulations, title 22, section 66263.20, in that on or about March 29, 2005, the Respondent failed to complete, date and sign the transporter section of manifest # 23577889.

2.4. The Respondent violated Health and Safety Code section 25202 and California Code of Regulations, title 22, section 66270.3, in that on or about November 15, 2005, the Respondent failed to comply with Permit, Part II, Special Conditions (2) by accepting and storing hazardous wastes (waste solvent, diesel, break fluid, and methanol) not authorized under the Permit.

2.5. The Respondent violated Health and Safety Code section 25160.2, and California Code of Regulations, title 22, section 66270.3, in that, at some time during the year of 2004 and/or 2005, the Respondent failed to comply with Permit, Part II, Special Conditions (2) by accepting and storing hazardous waste not authorized under the Permit. To Wit: Respondent accepted used oil with >1,000 ppm total halogens.

2.6. The Respondent violated Health and Safety Code section 25250.7, in that on or about November 15, 2005, the Respondent intentionally contaminated used oil with other hazardous waste.

2.7. The Respondent violated Health and Safety Code section 25201, subdivision (a), in that on or about November 15, 2005, the Respondent, as a transporter, stored hazardous waste in excess of the 10 days allowed under the transfer facility exemption without a permit or other grant of authorization from the Department.

2.8. The Respondent violated California Code of Regulations, title 22, section 66279.90, in that on or about December 6, 2005, the Respondent failed to conduct halogen testing to demonstrate that used oil accepted does not contain above 1,000 ppm total halogens.

2.9. The Respondent violated Health and Safety Code section 25189.2, subdivision (a), in that on or about December 6, 2005, the Respondent made a false statement or representation on a manifest. To wit: The Respondent misrepresented information on a manifest used to transport hazardous waste in drums by writing on the manifest that the Respondent was transporting hazardous waste in tanker trucks (TT).

2.10. The Respondent violated California Code of Regulations, title 22, section 66264.16, in that on or about November 15, 2005, the Respondent failed to provide an annual review of the initial personnel training for all facility personnel.

### 3. SCHEDULE FOR COMPLIANCE

3.1. The Respondent has corrected the violations cited above. The Respondent shall operate hereafter in a manner that shall prevent recurrences of the violations cited herein.

3.2. Respondent shall make all payments at the time(s) and in accord with any other conditions set forth in Section 5 (Penalty) below.

#### 4. OTHER PROVISIONS

4.1. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare or the environment.

4.2. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties and/or damages, as provided by Health and Safety Code, section 25188, and other applicable provisions of law.

4.3. Parties Bound. This Order shall apply to and be binding upon Respondent and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

4.4. Integration. This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this Order.

#### 5. PENALTY

5.1. Respondent shall pay the Department a total sum of \$15,000. The payment shall be paid in five (5) installments of \$3,000 each. The first installment of \$3,000 is due and payable on October 1, 2006, the second installment of \$3,000 is due and payable on January 1, 2007, the third installment of \$3,000 is due and payable on April 1, 2007, the fourth installment of \$3,000 is due and payable on July 1, 2007 and the fifth installment of \$3,000 is due and payable on October 1, 2007. Any installment payment

that is received by the Department more than 15 days after it is due will be subject to a \$250 penalty, such penalty shall be paid by Respondent no later than the due date of the next installment payment. If the Respondent is late in making two (2) or more payments, or fails to make a full installment payment within thirty (30) days of its due date, then the Department at its option may declare the entire balance of the outstanding penalty due and owing. If Respondent fails to make any payment timely, Respondent agrees to pay interest thereon at the rate established pursuant to Health and Safety Code section 25360.0. Respondent further agrees to pay all costs and attorney's fees incurred by the Department in pursuing the collection of any sums the payment of which becomes delinquent thereunder.

5.2. Respondent's check(s) shall be made payable to Department of Toxic Substances Control, shall identify the Respondent and Docket Number, as shown in the caption of this case, and shall be delivered to:

Department of Toxic Substances Control  
Accounting Office  
1001 I Street, 21st floor  
P. O. Box 806  
Sacramento, California 95812-0806

A photocopy of the check(s) shall be sent to:

Robert Kou, Unit Chief  
Statewide Compliance Division  
Department of Toxic Substances Control  
1011 N. Grandview Avenue  
Glendale, California 91201

and

Ramon Perez, Esq.  
Office of Legal Counsel  
Department of Toxic Substances Control  
9174 Sky Park Court, Suite 150  
San Diego, California 92123

5.3. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code, section 25360.1, and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

## 6. EFFECTIVE DATE

6.1. The effective date of this Order is the date it is signed by the Department.

Dated: 8/30/06

Original signed by Kim Glenn  
Respondent Signature

Kim Glenn  
Print Name of Respondent

Dated: 8/31/06

Original signed by Robert Kou  
Robert Kou, Unit Chief  
Department of Toxic Substances Control  
Statewide Compliance Division